

Notice of Allowability

Application No.

10/689,236

Examiner

Humera N. Sheikh

Applicant(s)

GANS, ARNOLD M.

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to paper filed 18 June 2007.
2. ☒ The allowed claim(s) is/are 1.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

7. ☒ The drawings filed 10/20/03 are accepted by the Examiner.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 9/10/07.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


HUMERAN SHEIKH
PRIMARY EXAMINER

DETAILED ACTION

Status of the Application

Receipt of the Response after Non-Final Office Action, the Amendment and Applicant's Arguments/Remarks, all filed 06/18/07 is acknowledged.

Claims 1 and 32-58 are pending in this action. Claim 1 has been amended. Claims 2-31 have been cancelled by Applicant's amendment filed 6/18/07. Claims 32-58 have been cancelled herein by Examiner's Amendment. Claim 1 is allowed.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Harvey L. Cohen on 09/10/07.

The application has been amended as follows:

In the Claims:

In claim 1, lines 5-6, the limitation "*about 0.02 to about 2.0 parts by weight of tryptophan*" has been **deleted**.

In claim 1, line 10, the limitation "*understood to be*" has been **deleted**.

Claims 32-58 have been cancelled.

Allowable Subject Matter

Claim 1 is allowed.

The following is an examiner's statement of reasons for allowance:

The primary reasons for allowance is that the prior art does not disclose nor fairly suggest a method of treating a mammal as claimed comprising the instant ingredients in the instantly claimed amounts, formulated for the purpose claimed by Applicant. The prior art does not disclose or teach the specific list of components for treating a mammal as claimed by Applicant in the specific amounts recited by Applicant. Thus, the instant invention deemed novel and non-obvious over the cited art of record.

In the Non-Final Office Action filed 04/20/07, claim 2 was indicated as objected to as dependent on a rejected base claim, but would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. In the response filed 06/18/07, Applicant has adopted the suggestions proposed by the Examiner and has amended claim 1 to incorporate the allowable limitations of dependent claim 2, rendering the application in condition for allowance. Additionally, via a telephonic interview held 09/10/07 between Applicant's representative (Harvey Cohen) and myself (Examiner Sheikh), Applicant's representative authorized claim amendments overcoming any possible 112-2nd paragraph indefinite issues. Furthermore, the judicially created obviousness-type double patenting rejections have been withdrawn, by virtue of Applicant's claim amendment, which amply distinguishes over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

Art Unit: 1615

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Humera N. Sheikh whose telephone number is (571) 272-0604. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday during regular business hours. (Wednesdays - Telework).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Humera N. Sheikh

Primary Examiner

Art Unit 1615

September 10, 2007


HUMERA N. SHEIKH
PRIMARY EXAMINER

hns